

defence and, on this I need make no further observation having regard to the conclusion at which I have arrived, it should be noted that the appellant himself gave evidence and he called two witnesses, one of whom was his daughter and the other his employer.

The evidence of the appellant was rejected without any grounds therefor and the evidence of the two witnesses was totally ignored. In fact the learned district judge did not make any finding as to whether he accepted their evidence or not. The daughter gave evidence exonerating her father. The employer gave evidence showing that the appellant was in receipt of an income of his own. In the absence of any finding as to these two witnesses it is impossible to say that a reasonable doubt was not created. I do not think I am entitled to assume that the evidence of the daughter and the employer was rejected.

Much as I dislike interfering with findings of fact by the courts below, this is one of those cases where, in my opinion, it can be said that the verdict is unreasonable.

In conclusion, I should like to refer to an interesting proposition which was advanced by counsel for the appellant, namely, that the presumption in section 131 of the Women's Charter to the effect that a person who is proved to be living with a prostitute shall be deemed, until the contrary is proved, to be knowingly living on her immoral earnings, does not apply in the case of married people. The presumption was never referred to by the learned district judge in his grounds of decision although the learned deputy public prosecutor during the argument on appeal did make a somewhat faint-hearted effort to rely on it. Whilst I consider it unnecessary for me to express an opinion on this point, having regard to the fact that I have decided to allow the appeal on other grounds, I am of the opinion that the contention of counsel for the appellant is a tenable one, having regard to the language of the subsection concerned.

The appeal is accordingly allowed, the conviction set aside and the sentence quashed.

Appeal allowed.

RE SINGAPORE INDUSTRIAL WORKERS UNION

[O.C.J. (Choor Singh J.) August 3, 1964]

[Singapore—Originating Summons No. 95 of 1964]

Trade Union — Rules and constitution — Interpretation — Union open to workers employed in "private undertaking or industry" — Employer a "non-profit making organisation" — Whether employees of, eligible to union membership — Application under O. LII, r. 5(1) of the Rules of the High Court, 1934.

Rule 3(a) of the Rules and Constitution of the Singapore Industrial Workers Union provides that mem-

A bership of the union is open to "all workers regardless of race and sex over the age of 18, who are employed in any private undertaking or industry in Singapore". On an application for a ruling on the true construction of the rule and whether pursuant thereto the employees of the Automobile Association of Singapore are eligible for union membership,

B Held: the Automobile Association of Singapore is not an industry but it is a private undertaking within the meaning of that rule. The fact that it is non-profit making is irrelevant. Its employees are therefore eligible for membership of the union.

APPLICATION for construction of Union Rules.

T. T. Rajah for the applicant.

C *Lim Chor Pee* (Crown Counsel) for the respondent.

D **Choor Singh J.:** This was an application by the Singapore Industrial Workers Union for a ruling from the court on the true construction of rules 2(a) and 3(a) of the Rules and Constitution of the Union and whether pursuant to the said Rules, the employees of the Automobile Association of Singapore are eligible for membership of the union.

E The Singapore Industrial Workers Union is a trade union registered under the Trade Unions Ordinance (Cap. 154) of Singapore. Rules 2(a) and 3(a) of the union's Rules and Constitution provide as follows:—

2(a) The objects of this union shall be to secure the complete organisation and unity of all workers in private employment in Singapore and to promote the industrial, social and intellectual interests of the members.

3(a) This union is open to all workers, regardless of race and sex, over the age of 18, who are employed in any private undertaking or industry in Singapore.

F The Automobile Association of Singapore is a society registered under the Societies Ordinance (Cap. 228) of Singapore. The association is a non-profit making organisation run by and for its members. The facilities provided by the association for its members are:—

G (a) the provision of radio road service to assist members whose cars suffer unexpected mechanical breakdown in Singapore.

(b) Towage and crane-lifting services within certain financial limits.

(c) Up-country breakdown service.

(d) Technical service.

H (e) Free legal advice and defence.

(f) Insurance.

(g) Towing and shipping services.

(h) Motoring documents.

(i) Reciprocal service — interstate and overseas.

(j) Driver hire service.

(k) Quarterly journal.

I (l) Reminders and renewals of driving licences, vehicle licences, and transfer of vehicle ownership.

(m) maps and other touring information.

The association employs a secretary, manager, accountant, clerks, typists, peons, radio-telephone operators, mechanics and drivers.

On the 6th June 1964 the union wrote to the Commissioner for Labour, the respondent in these proceedings, requesting him to intervene in the dispute between the union and the association on the matter of recognition of the union by the association. On the 11th June 1964 the union received a reply from the respondent, stating, *inter alia*, that in his view "the employees of the Automobile Association of Singapore are not eligible to join the union as members". Thereafter the union commenced these proceedings.

In my view, eligibility for membership of the union is governed by rule 3(a) of the union's Rules, which states that membership of the union is open to "all workers, regardless of race and sex, over the age of 18, who are employed in any private undertaking or industry in Singapore". To become a member of the union, a person must in the first place be over the age of 18, and, secondly, he must be employed in any private undertaking or industry in Singapore.

The issue to be determined in these proceedings is whether or not the Automobile Association of Singapore is a "private undertaking or industry" within the meaning of rule 3(a) of the union's Rules. In my opinion it clearly is. The association is not an industry but it certainly is a private undertaking in the sense that it undertakes to provide and does provide certain facilities to its members. It is a business organisation registered as a private society. The fact that the association is non-profit making is in my view irrelevant. I have not the least doubt that it is an undertaking and I cannot see how it can be said that it is not an "undertaking".

It was urged on behalf of the respondent that the title of the union shows that it was the intention of the persons who framed the rules of the union, to embrace all industrial workers and the expression "undertaking" refers to industrial undertakings. Counsel used the analogy of interpretation of an Act of Parliament and submitted that in the expression "undertaking or industry" the meaning of the word "undertaking" should be restricted to undertakings of an industrial character.

In my view there is no ambiguity in the expression "private undertaking or industry" in the context in which it is used. It means what it says. The framers of this rule cast their net very wide. They left the door to membership wide open to all persons employed in all private undertakings, industrial or otherwise. This is clear from the objects of the union set out in rule 2(a), viz. "to secure the complete organisation and unity of all workers in private employment in Singapore".

For these reasons I held that the Automobile Association of Singapore is a private undertaking

A within the meaning of rule 3(a) of the Rules and Constitution of the Singapore Industrial Workers Union and that the employees of the association are eligible for membership of the union.

Order accordingly.

MONTEIRO v. PUBLIC PROSECUTOR

[A.Cr.J. (Ismail Khan J.) August 7, 1964]

[Malacca — Criminal Appeal No. 2 of 1964]

C *Criminal Procedure — Court finding accused guilty before hearing submissions of defence counsel — Defence counsel bringing this to attention of court — Counsel refusing to submit when opportunity given — Whether court can alter finding before it rises for the day — Court convicting accused — Whether proper — Criminal Procedure Code (S. S. Cap. 21), s. 272.*

Penal Code, s. 165.

D The appellant was found guilty on a charge under section 165 of the Penal Code. On appeal against conviction it was contended (i) that his counsel was never given an opportunity of addressing the court at the close of the case and (ii) the learned President having already made his finding could not alter such a finding notwithstanding any submission on the part of counsel. The record showed that at the close of the case the learned President found the appellant guilty before his counsel addressed the court. When the President's attention was drawn to this by defence counsel, before sentence was passed, he gave counsel an opportunity to make his submissions, however, counsel declined to do so.

F Held: (1) the learned President's first finding was due purely to inadvertence. It was not final as the court had not arisen for the day. It was open to him to call on defence counsel to make his submissions after such a finding and in the light of counsel's submissions, to alter, if necessary, that finding;

(2) in this case as defence counsel did not avail himself of that opportunity, it could not be said that opportunity to address the court was denied to counsel.

CRIMINAL APPEAL.

Chew Kok Chooi for the appellant.

G *Abdul Razak bin Dato Abu Samah* (Deputy Public Prosecutor) for the respondent.

Ismail Khan J.: The appellant was charged as follows:—

H "That you on the 27th day of June 1963 at about 10.10 a.m. at Jalan Kampong Hulu, in the Central District of Malacca, in the State of Malacca, being an agent employed by public body namely the Government of the Federation of Malaya, as a Detective Sergeant 213 of the Royal Federation of Malaya Police, did corruptly accept from one See Thin Beng, for yourself a gratification of \$300 (dollars three hundred only) as an inducement for doing an act in relation to your principal's affairs, to wit, for forbearing to investigate on See Thin Beng, a suspected illegal immigrant, and that you thereby committed an offence punishable under section 4(a) of the Prevention of Corruption Act No. 42 of 1961."

Alternatively:

"That you on the same date, time and place, being a public servant, namely Detective Sergeant 213 of the Royal Federation of Malaya Police, did accept a valuable